

MEMORANDUM

TO: Docket Control
FROM: Robin Mitchell, Legal Division Director
CC:
DATE: November 3, 2021
RE: AU-00000E-17-0079

Attached please find the Commission's response to the September 2, 2021 letter from Senators Gray and Kerr and Representative Griffin.

RM:ikl

COMMISSIONERS

Lea Márquez Peterson - Chairwoman
Sandra D. Kennedy
Justin Olson
Anna Tovar
Jim O'Connor



Matthew J. Neubert
Executive Director

ARIZONA CORPORATION COMMISSION

November 3, 2021

Senator Rick Gray
Senator Sine Kerr
Representative Gail Griffin
Arizona Legislature
1700 West Washington
Rooms 212, 204, and 203
Phoenix, Arizona 85007

VIA EMAIL

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Dear Senator Rick Gray, Senator Sine Kerr and Representative Gail Griffin:

Thank you for your letter on September 2, 2021 regarding the Arizona Corporation Commission's Code of Ethics ("Code"). Although the Arizona Legislative Council has raised several issues of concerns with the Code, their concerns, though noted, are unwarranted. The Code is intended to provide guidance and assist Commissioners in maintaining the highest standards of conduct.

The Code of Ethics was first enacted in 2017. The Commission wanted to assure the public that the statewide elected Commissioners would adhere to stringent ethical standards. You may recall that during that time, a former Commissioner was indicted on bribery charges and it was suspected and later confirmed that the state's largest investor-owned utility had engaged in the use of an independent expenditure committee to influence the 2014 and 2016 Commission elections. It was against that backdrop that the Commission instituted its Code of Ethics.

Because the Commission in large part acts in a quasi-judicial capacity, its Code was modeled after the Arizona Code of Judicial Conduct. An independent, fair, and impartial Commission is indispensable to this state. The comments that accompany each section of the Code serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of that section. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Second, the comments identify aspirational goals for Commissioners. Because the Commission's jurisdiction touches upon numerous aspects of the day-to-day life for the people of Arizona, the Commission constantly strives to ensure its conduct instills the greatest public confidence in its independence, impartiality, integrity and competence.

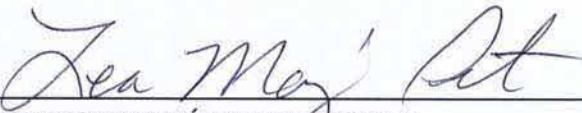
The Code of Ethics does not violate the state constitution, any statute or any election campaign laws. Nothing in the Code prohibits a Commissioner from "participating" in "ACC activities." In restoring the public trust, there may be circumstances that warrant recusal. With the exception of the recusal requirements for traditionally funded candidates, any such recusal is ultimately up to the individual


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Commissioners. Public confidence in the Commission is eroded if the public perceives that a Commissioner is not acting impartially.

We have yet to hear a Commission candidate say that he or she does not subscribe to the highest ethical standards that are embodied in our Code. Our regulated entities have not complained that the Code infringes on their rights. Nothing in our Code infringes on the rights of any candidate. The ultimate goal of the Code of ethics is to promote transparency and foster public trust.

Sincerely,


CHAIRWOMAN MÁRQUEZ PETERSON


COMMISSIONER KENNEDY


COMMISSIONER OLSON


COMMISSIONER TOVAR


COMMISSIONER O'CONNOR